

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK: HOUSING PART F

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Mariners Cover Site B Assoc.

L&T INDEX # 63974/14

Petitioner

-against-

Dr. Greer

Respondents

ORDER/DECISION

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Recitation as required by CPLR 2219(A), of the papers considered in review of these motions:

Order to Show Cause and Affidavits annexed.....1-3  
Answering Affidavits .....8  
Exhibits.....4-7

Petitioner's motion to enter a judgment for failure to pay court ordered use and occupancy is granted.

There is no dispute respondent has not made any payments of use and occupancy as directed by the order of Civil Courts dated March 13, 2015. Accordingly, respondent's affirmative defenses and counterclaims are hereby dismissed without prejudice to a plenary action. Petitioner is awarded a final judgment of possession and the forthwith issuance of the warrant of eviction. Execution is stayed to March 31, 2016 provided respondent pays use and occupancy at the rate of \$3395 per month on or before the 15th day of February and March 2016 respectively (see RPAPL 745 [2][c][i]; *Clinton Hill Lofts, I LLC v. Reid*, NYLJ Aug.6, 2003 p. 23 c. 1 [Civ. Ct. Kings Co.]).

Petitioner is also awarded a money judgment in the sum of \$44, 135 representing unpaid use and occupancy for the period of April 2014 to April 2015. This award is without prejudice to a plenary action for the use and occupancy which may have accrued after April 31, 2015 and without prejudice to any defense thereto.

The foregoing constitutes the decision and order of this court.

Date: January 28, 2016  
New York, New York

  
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Maria Milin, JHC

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Respondent's motion to dismiss on the ground that petitioner lacks standing to maintain this proceeding is denied. Respondent's argument that because the managing partner has been removed, the remaining members no longer have standing is without merit.

Petitioner, as the landlord of the premises, has standing to proceed irrespective of respondent's claims as to its internal management (RPAPL 721[1]).

Accordingly, the motion is denied.

The foregoing constitutes the decision and order of this court.

Date: January 28, 2016  
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